IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No. 1775 of 1997

For Approval and Signature:

THE HON'BLE MR.JUSTICE A.M.KAPADIA

==========

1	Whether Reporters of Local Papers may be allowed to see the judgment ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgment ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 of any order made thereunder ?
5	Whether it is to be circulated to the civil judge ?

==========

RAMESHCHANDRA MANGARAM &3 - Petitioner(s)

Versus

STATE BANK OF SAURASHTRA &2 - Respondent(s)

==========

Appearance :

MS SEJAL K MANDAVIA for Petitioner No(s).: 1,2,3.

MR DEVESH A BHATT for Respondent No(s).: 1.
MR DC SEJPAL for Respondent No(s).: 2.

==========

CORAM :THE HON'BLE MR.JUSTICE A.M.KAPADIA

Date : 20/06/2005

ORAL JUDGMENT

1.By filing instant application under Section 115 of the Code of Civil Procedure ('the Code' for short), the petitioners seek to challenge the interim order dated 10.11.1997 recorded below application Exh.8 in Special Civil Suit No. 31 of 1993 by the learned Civil Judge (SD), Veraval, by which the application filed by respondent No.1 – Bank against the petitioner as well as respondent No.2 under Order 38 Rule 5(i) of the Code, came to be allowed and thereby petitioner Nos.2 and 3 were directed to furnish security in the sum of Rs.75000/-, in all Rs. 1,50,000/- within a period of 20 days from the date of the order till disposal of the Suit.

2.At the time of admission hearing, Rule came to be issued vide order dated 3.2.1998 and, interim relief granted by this Court, was directed to be continued on condition that t*he petitioners file an undertaking before this Court within a period of two weeks that they will not transfer or alienate the residential house referred to in the impugned order. They will also undertake that they will not enter into any sort of sale transaction of the suit property*. In compliance of the said order, the petitioners have also filed an undertaking.

3.Today, when the matter is called out for final hearing , none of the advocates appearing for the parties could not point out as to what is the status of the said Special Civil Suit No. 31 of 1998, as to whether the same is still pending or disposed of by now.

4.In aforesaid view of the matter, since the petitioners have filed this Civil Revision Application against the interlocutory order directing them to furnish security in the sum of Rs.75000/-, in all Rs. 1,50,000/- and this Court has, while issuing Rule, directed the petitioners not to transfer or alienate the residential house, which they have complied with, according to this Court, this Revision Application succeeds in part and accordingly it is partly allowed with no order as to costs, since respondent No.1 – plaintiff's interest is taken care of by this order. Rule is made absolute to the aforesaid extent.

5.The learned Civil Judge (SD), Verawal is hereby directed to dispose of the said Special Civil Suit No. 31 of 1993 on or before 31.12.2005, if not disposed of so far. Petitioners are further directed not to dispose of the said residential house for which the undertaking has been filed, till disposal of the Suit and this order is subject to the result of the Suit.

(A.M.Kapadia,J)

Jayanti*